IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

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WRIT PETITION NO : 11460 of 2004

Between:

Kolli Venkateswarlu S/o.Veeraiah, aged 38 years, occ: Secretary (u/s) PACS, Komarabanda, Nalgonda District, R/o.Komarabanda, Nalgonda District.

..... PETITIONER

AND

1.The District Cooperative Officer, Nalgonda, Nalgonda District.
2.The Nalgonda District Cooperative Central Bank Limited, Nalgonda, rep. by its

Manager.
3.Primary Agricultural Cooperative Society, rep. by its Person-in-charge,
Komarabanda, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus to declare the impugned order dt 30-6-2004 on the file of the 2nd respondent as illegal, arbitrary, unconstitutional and contrary to the provisions of the A.P. Co-operative Societies Act and consequently set aside the same and to grant such other relief or reliefs.

Counsel for the Petitioner: MR.P.NAGESWARA RAO

Counsel for the Respondent Nos.1 and 3: GP FOR COOPERATION

Counsel for the respondent No.2 :MR.T.AMARNATH GOUD

The Court at the admission stage made the following :

O R D E R:

The petitioner is a Paid Secretary of the third respondent society. There is an allegation against the petitioner that he misappropriated Rs.3,75,827/- belonging to the third respondent society. The petitioner contends that the person in charge of the third respondent society surprisingly gave the impugned order on 30th June 2004 terminating him from service without giving any opportunity to represent his case. Therefore, he seeks a direction from this Court to hold that the above order is illegal, arbitrary and is liable to be set aside.

2. The learned counsel representing the respondents drew the attention of this Court to the resolution of the Managing Committee of the society and clarified that though the wording used in the impugned order is not accurate, the intention of the committee was only to keep the petitioner under suspension pending departmental enquiry ordered against him for the misappropriation of the funds of the society. The learned counsel for the respondents further submitted that the third respondent also issued a charge memo to the petitioner on 16.07.2004 calling for his explanation to the charge framed against him regarding the misappropriation of the funds. The learned counsel further represented that had the Managing Committee meant that the petitioner was terminated from service, it would not have proceeded further by sending the charge sheet to the petitioner regarding the misappropriation of the funds. He further represented that on 26.06.2004 an enquiry was also ordered under Section 451 of the A.P.Cooperative Societies Act.

3. In the light of the clarification given by the learned counsel for the respondents, it is clarified that the petitioner is still holding the post of Paid Secretary, but he is kept under suspension pending enquiry. Though the learned counsel for petitioner stated that the Managing Committee cannot pass the order of suspension without the permission of the Commissioner of Cooperative Societies, the learned counsel for respondents submitted that in pursuance of a general circular issued by the Commissioner to keep such employees of the societies, who misappropriated the funds of the society, under suspension, pending enquiries against such persons.

4. In the light of the above circumstances, I do not find any illegality in the order passed by the third respondent keeping the petitioner under suspension pending enquiry. Since the enquiry is in progress, it is not desirable to entertain this writ petition at this stage. The petitioner is at liberty to avail remedies available under law after passing of the final orders by the Managing Committee in the enquiry ordered against him.

4. With the above direction the writ petition is disposed of. No costs.

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Dr.G.Yethirajulu,J.

Dated 27th July, 2004.

*Bsb/Svs

To

1. The District Co-operative Officer, Nalgonda, Nalgonda District.

2.Primary Agricultural Cooperative Society, rep. by its Person-in-charge, Komarabanda, Nalgonda District.

3.Two CCs to the Government Pleader for Co-operation, High Court

Buildings,Hyderabad (O.U.T).

4.Two CD copies.